

(e) Cases that are settled may not be reopened or appealed.

§ 280.621 Reopening.

The respondent may petition the administrative law judge within one year of the date of the final decision, except where the decision arises from a default judgment or from a settlement, to reopen an administrative enforcement proceeding to receive any relevant and material evidence which was unknown or unobtainable at the time the proceeding was held. The petition must include a summary of such evidence, the reasons why it is deemed relevant and material, and the reasons why it could not have been presented at the time the proceedings were held. The administrative law judge will grant or deny the petition after providing other parties reasonable opportunity to comment. If the proceeding is reopened, the administrative law judge may make such arrangements as the ALJ deems appropriate for receiving the new evidence and completing the record. The administrative law judge will then issue a new initial decision and order, and the case will proceed to final decision and order in accordance with § 280.623 of this part.

§ 280.622 Record for decision and availability of documents.

(a) *General.* The transcript of hearings, exhibits, rulings, orders, all papers and requests filed in the proceedings and, for purposes of any appeal under § 280.623 of this part, the decision of the administrative law judge and such submissions as are provided for by § 280.623 of this part, will constitute the record and the exclusive basis for decision. When a case is settled after the service of a charging letter, the record will consist of any and all of the foregoing, as well as the settlement agreement and the order. When a case is settled before service of a charging letter, the record will consist of the proposed charging letter, the settlement agreement and the order.

(b) *Restricted access.* On the administrative law judge's own motion, or on the motion of any party, the administrative law judge may direct that there be a restricted access portion of the record for any material in the record to

which public access is restricted by law or by the terms of a protective order entered in the proceedings. A party seeking to restrict access to any portion of the record is responsible for submitting, at the time specified in § 280.622(c)(2) of this part, a version of the document proposed for public availability that reflects the requested deletion. The restricted access portion of the record will be placed in a separate file and the file will be clearly marked to avoid improper disclosure and to identify it as a portion of the official record in the proceedings. The administrative law judge may act at any time to permit material that becomes declassified or unrestricted through passage of time to be transferred to the unrestricted access portion of the record.

(c) *Availability of documents—(1) Scope.* All charging letters, answers, initial decisions, and orders disposing of a case will be made available for public inspection in the BXA Freedom of Information Records Inspection Facility, U.S. Department of Commerce, Room H-6624, 14th Street and Pennsylvania Avenue, NW, Washington, DC 20230. The complete record for decision, as defined in paragraphs (a) and (b) of this section will be made available on request.

(2) *Timing.* Documents are available immediately upon filing, except for any portion of the record for which a request for segregation is made. Parties that seek to restrict access to any portion of the record under paragraph (b) of this section must make such a request, together with the reasons supporting the claim of confidentiality, simultaneously with the submission of material for the record.

§ 280.623 Appeals.

(a) *Grounds.* A party may appeal to the Under Secretary from an order disposing of a proceeding or an order denying a petition to set aside a default or a petition for reopening, on the grounds:

(1) That a necessary finding of fact is omitted, erroneous or unsupported by substantial evidence of record;

(2) That a necessary legal conclusion or finding is contrary to law;